

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 1

Question No. 104

Senator McKenzie asked the following question at the hearing on 14 February 2012:

The following questions relate to the Government Statement of Response – *Joint Select Committee on Cyber-Safety Interim Report High Wire Act: Cyber-Safety and the Young*

1. Is the Government considering the ALRC's recommendation to remove the small business exemption as per recommendation 4?
2. What is the status of deliberations over the proposed amendment?
3. Has the Department undertaken any work to further recommendations 22, 23, 31 or 32?
4. The Government response to recommendations 9, 10 and 11 says that "the Government will consider this as part of the stage one response to the ALRC recommendations currently being undertaken". What progress has been made towards the stage one response to the ALRC recommendation?

The answer to the honourable senator's question is as follows:

1. The Government has indicated it will respond to the Australian Law Reform Commission's report 108 *For Your Information: Australian Privacy Law and Practice* in two stages. Recommendations concerning the small business exemption in the *Privacy Act 1988* will be dealt with as part of the second stage which will be advanced during 2012.
2. See answer to question 1.
- 3.

Recommendation 22

The Australian Federal Police's High Tech Crime Operations (HTCO) portfolio has commissioned the building of an eCourt facility in Canberra which will assist the legal fraternity to address the challenges of complex electronic evidence. The facility is due to become operational in mid-2012. The HTCO also runs an education and awareness program in conjunction with the National Judicial College of Australia for the legal fraternity.

The National Cybercrime Working Group (NCWG), which is chaired by the Secretary of the Department and comprises police and justice agencies from each Australian jurisdiction, is likely to receive an update on the AFP's work in this area and to consider existing arrangements and possible future initiatives in judicial and legal practitioner training throughout Australia on issues relating to emerging technologies.

Recommendation 23

As part of its ongoing mandate, the NCWG monitors offences relevant to cyber crime to ensure they keep pace with technological change. In 2010, the NCWG considered the adequacy of offences directed at the kind of behaviour that underlies serious cases of cyber bullying and cyber stalking, and considered that no new offences were necessary at this time. In addition, in 2011 the Model Criminal Law Officers Committee considered whether the model computer offences—which have been implemented in most Australian jurisdictions, including the Commonwealth—are adequate in light of current technology, and considered that no revisions were required at this time. The Department and the NCWG will continue to monitor relevant offences to ensure they remain effective.

Recommendation 31

The Department participates in the Consultative Working Group on Cybersafety (CWG), which is chaired by the Department of Broadband, Communications and the Digital Economy (DBCDE), and includes representatives from social networking services. The issues considered by the CWG include complaints handling protocols for social networking services. The Department also notes the development of a closer working relationship on these issues between Australian agencies and social networking sites, such as Facebook, who appointed an Australian-based government point of contact in 2011.

Recommendation 32

The Department, in consultation with relevant agencies, regularly consults with service providers on a range of issues, and will continue to explore ways to reduce costs for law enforcement agencies collecting evidence against online offenders.

4. The Government released its stage one response to the Australian Law Reform Commission's report 108 *For Your Information: Australian Privacy Law and Practice* in October 2009. Exposure drafts of the new Australian Privacy Principles and credit reporting system were released in June 2010 and January 2011 respectively. Both exposure drafts were considered by the Senate Finance and Public Administration Committee which reported on the Australian Privacy Principles in June 2011 and the credit reporting provisions in October 2011. The Government is considering the reports and intends to introduce a Privacy Bill in 2012.